

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00472  
**Petitioner:** Eugene W. & Brenda L. Pupillo  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-12-14-0207-0028  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$392,400, and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. A hearing was held on December 8, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at 1612 Muirfield Drive, Dyer, in St. John Township.
6. The subject property is a single-family home on 0.464 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$121,200 for the land and \$271,200 for the improvements for a total assessed value of \$392,400.
9. The Petitioner requests a value of \$97,500 for the land and \$227,400 for the improvements for a total value of \$324,900.
10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

11. Brenda Puls (formerly Brenda Pupillo), Petitioner, and Diane Spenos, representing the DLGF, appeared at the hearing and were sworn in as witnesses.

### **Issues**

12. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) Brenda Puls (formerly Brenda Pupillo) is the legal owner of the subject property. *Puls testimony; Pet'r Ex. 5.*
  - b) An appraisal places the value of the subject property at \$355,000 on April 20, 2002. *Puls testimony; Pet'r Ex. 8.* Assuming 3% appreciation per year, the January 1, 1999, value should be \$324,900 or less. *Puls testimony; Pet'r Ex. 7.*
  - c) An analysis of comparable properties, all within the subject's neighborhood, shows and average assessed value of \$319,106.21. *Puls testimony; Pet'r Ex. 9.*
13. Summary of Respondent's contentions in support of the assessment:
- a) Based on the appraisal and a time adjustment factor calculated by the DLGF, the Respondent recommended an assessed value of \$309,900. *Spenos testimony; Resp't Ex. 7.* The Petitioner agreed with this value.

### **Record**

14. The official record for this matter is made up of the following:
- a) The Petition.
  - b) The tape recording of the hearing labeled Lake Co -997.
  - c) Exhibits:
    - Petitioner Exhibit 1: Form 139L Petition
    - Petitioner Exhibit 2: Notice of the DLGF Assessed Value Determination
    - Petitioner Exhibit 3: Summary of Petitioner's Arguments
    - Petitioner Exhibit 4: Outline of Evidence
    - Petitioner Exhibit 5: Decree of Dissolution of Marriage
    - Petitioner Exhibit 6: Settlement Agreement
    - Petitioner Exhibit 7: Appraisal Analysis
    - Petitioner Exhibit 8: Appraisal Report
    - Petitioner Exhibit 9: Comparable Property Analysis
  
    - Respondent Exhibit 1: Form 139L Petition
    - Respondent Exhibit 2: Subject Property Record Card
    - Respondent Exhibit 3: Subject Property Photograph

Respondent Exhibit 4:	Top Three Comparable Sales Sheet
Respondent Exhibit 5:	Top Twenty Comparable Sales Sheet
Respondent Exhibit 6:	Comparable Property Record Cards & Photographs
Respondent Exhibit 7:	Recommendation of Assessed Value
Board Exhibit A:	Form 139L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Sign-In Sheet

d) These Findings and Conclusions.

### Analysis

15. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E. 2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board....through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

16. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

- a) The Petitioner contends that the subject property is overvalued in its assessment. In support of her contention, the Petitioner submitted an appraisal and a related time adjustment analysis. *Pet’r Ex. 7, 8*. The Petitioner requests a total assessment of \$324,900.
- b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.

- c) The Respondent agreed that the Petitioner made a prima facie case with the submission of the appraisal, and, based on the DLGF time adjustment calculations, recommended an assessed value of \$309,900 for the subject property. The Petitioner agreed with this figure.
- d) Based on the foregoing, the Board hereby lowers the assessment to \$309,900.

**Conclusion**

- 17. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of Petitioner.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$309,900.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.